

AMENDED IN SENATE APRIL 23, 2012

SENATE BILL

No. 1191

Introduced by Senator Simitian

February 22, 2012

An act to add Section 2924.9 to the Civil Code, relating to landlord-tenant relations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1191, as amended, Simitian. Landlord-tenant relations: disclosure of notice of ~~sale~~ *default*.

Existing law generally regulates the hiring of real property, including, among other things, specifying certain obligations imposed on landlords and obligations imposed on tenants. Existing law, until January 1, 2013, requires a ~~resident~~ *tenant* of property upon which a notice of sale has been posted to be provided a specified notice advising the ~~resident~~ *tenant* that, among other things, ~~if the person is renting the property,~~ the new property owner may either give the tenant a new lease or rental agreement, or provide the tenant with a 60-day eviction notice, and that other laws may prohibit the eviction or provide the tenant with a longer notice before eviction.

This bill would require every landlord who is in default under a mortgage or deed of trust *secured by a single-family dwelling, or a multifamily dwelling not exceeding 4 units*, and who has received a notice of ~~sale default~~ from the mortgagee, trustee, or other person authorized to take the *foreclosure* sale to disclose the notice of ~~sale default in writing~~ to any prospective tenant prior to executing a lease agreement for the property ~~to be sold~~. The bill would also provide that a violation of those provisions would ~~invalidate~~ *allow the tenant to void* the lease and entitle the tenant to recovery of ~~all rent paid under the~~

~~lease, twice the monthly rent or twice the amount of actual damages from the landlord, and all prepaid rent, in addition to any other remedies that are available. The bill would also provide that if the tenant elects not to void the lease and the foreclosure sale has not yet occurred, the tenant may deduct twice the monthly rent from future rent obligations owed the landlord who received the notice of default. The bill would specify the content of the written disclosure notice.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2924.9 is added to the Civil Code, to
2 read:
3 2924.9. (a) Every landlord who is in default under a mortgage
4 or deed of trust *secured by a single-family dwelling, or a*
5 *multifamily dwelling not exceeding four units*, and who has received
6 a notice of ~~sale~~ default from the mortgagee, trustee, or other person
7 authorized to take the *foreclosure* sale shall disclose the notice of
8 ~~sale~~ default in writing to any prospective tenant prior to executing
9 a lease agreement for the property ~~to be sold~~ *subject to the notice*.
10 (b) A violation of subdivision (a) shall ~~invalidate~~ void the lease
11 *at the election of the tenant* and shall entitle the tenant to recovery
12 ~~of all rent paid under the lease~~ *twice the monthly rent or twice the*
13 *actual damages, whichever is greater, and all prepaid rent from*
14 *the landlord who received the notice of default, in addition to any*
15 *other remedy that the law may provide*.
16 (c) *In lieu of the remedies in subdivision (b), if the tenant elects*
17 *not to terminate the lease and the foreclosure sale has not*
18 *occurred, the tenant may elect to deduct twice the monthly rent*
19 *from future rent obligations owed the landlord who received the*
20 *notice of default*.
21 (d) *The written disclosure notice required by subdivision (a)*
22 *shall be substantially in the following form:*
23
24 *The foreclosure process has begun on this property, and this*
25 *property may be sold at foreclosure. If you rent this property, and*
26 *a foreclosure sale occurs, the sale may affect your right to continue*
27 *to live in this property in the future. Your tenancy may continue*
28 *after the sale. In order for the new owner to evict you, the new*

- 1 *owner must provide you with at least 50 days' written eviction*
- 2 *notice or 90 days if required by any other provision of state or*
- 3 *federal law. However, some laws may prohibit eviction.*

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